IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1888 of 2001

to

FIRST APPEALNo 1891 of 2001

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT THRO' DY COLLECTOR

Versus

KARSHAN MEGHAJI

Appearance:

MR AY KOGJE, AGP for Appellants

MR VIMAL M PATEL for Respondent

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE Y.B.BHATT

Date of decision: 18/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. In this group of four appeals the challenge is against the amount of compensation awarded by the Reference Court by passing award in each matter under section 18 of the Land Acquisition At, 1894 (the said Act for short), at the instance of the State of Gujarat and the Land Acquisition Officer under section 54 of the said Act.

2. Pursuant to the Notification under section 4(1) of the said Act dated 12.10.1987, the agricultural lands of the respondents came to be acquired, for which the Land Acquisition Officer, Junagadh, passed awards under section 11 of the said Act. The lands came to be acquired for the purpose of irrigation project known as "Machundari", situated in village Gir-Gadhada of Una Taluka, District Junagadh, by virtue of LAQ Award No.39/86 in Land Reference Case Nos.688/99, 689/99, 692/99 and 1300/99.

3. The Land Acquisition Officer offered an amount of Rs.180/- per Are in respect of irrigated land and Rs.140/- per Are for non-irrigated land, over and above the amount payable under Government Resolution dated 16th May 1985 in respect of different types of trees. The land owners did not accept the awards and desired for reference by giving applications to the Land Acquisition Officer. References were, therefore, made to the Civil Court. The Reference Court, after considering the facts and circumstances of the case, passed common judgement and awards dated 6th June 2000, whereby the Land Reference Cases were partly allowed. Accordingly the claimants were found entitled to get compensation at the rate of Rs.165/- per Are for irrigated land and Rs.135/- per Are for non-irrigated land.The Reference Court further directed that the claimants are also entitled to get compensation for mango tree at the rate of Rs.2700 per tree, for lemon tree at the rate of Rs.900 per tree, for coconut tree at the rate of Rs.600 per tree, for non-fruit bearing Pipal tree at the rate of Rs.600 per tree and for non-fruit bearing neem tree at the rate of Rs.600 per tree, over and above the other statutory benefits, after determining the market value under section 23 of the Act. This approach is rightly commented.

4. We have heard the learned advocates appearing for

the parties. We have also considered the relevant and material evidence emerging from the record of the present case and we find that the approach of the Reference Court in considering and determining the market value and resultant compensation in case of acquisition of agricultural lands with fruit-bearing and non-fruit bearing trees, is not only not just, proper and reasonable, but is found to be dehors the latest proposition of law and certain decisions of this Court which were not unfortunately brought to the notice of the Reference Court. Therefore, we are of the clear opinion that this group of four appeals is required to be remitted back to the Reference Court for reconsideration after giving opportunity of adducing further evidence to the parties concerned. Since we are passing an order for remand in the peculiar facts and circumstances of the case, it would not be expedient to make any observation about the submissions raised before us. The only main factor which has appealed to us for remand is that the entire approach of the Reference Court and the resultant determination of market value and the compensation requires a fresh look in the light of the latest proposition of law and also the necessary evidence which may be adduced by the parties after the remand, and also the material provisions of the Act in general and the provisions of section 23 in particular. We have already permitted withdrawal of the Cross Objections filed on behalf of the respondents-original claimants.

5. In the result, the impugned awards of the Reference Court in each appeal shall stand quashed and set aside and the Reference Court is directed to decide afresh the Land Reference Case Nos.688/99, 689/99, 692/99 and 1300/99, after giving an opportunity of leading evidence to the parties concerned, as expeditiously as possible and in any case not later than 31st March 2002. All the four appeals shall stand disposed of accordingly with no order as to costs.

6. The office is directed to transmit immediately the original records and proceedings to the Reference Court.

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